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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,595	02/21/2004	Robert Peter Enston	HDRA001	1526
36297 7590 06/05/2007 BAY AREA INTELLECTUAL PROPERTY GROUP, LLC PO BOX 210459 SAN FRANCISCO, CA 94121-0459			EXAMINER FRISTOE JR, JOHN K	
			ART UNIT 3753	PAPER NUMBER
			MAIL DATE 06/05/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/783,595

Applicant(s)

ENSTON, ROBERT PETER

Examiner

John K. Fristoe Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 and 30-57 is/are pending in the application.
- 4a) Of the above claim(s) 16-27 and 40-56 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 28, 30-32 and 57 is/are rejected.
- 7) ☒ Claim(s) 9-15 and 33-39 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/21/2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

1. Applicant is advised that language in canceled claims should not be included in claim amendments. Any canceled claim should simply have the "canceled" status identifier listed next to the claim number in the complete listing of the claims.

Election/Restrictions

2. This application contains claims 16-27 and 40-56 drawn to an invention nonelected with traverse in the reply filed on 10/18/2005. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Response to Arguments

3. Applicant's arguments filed 3/7/2007 have been fully considered but they are not persuasive. Applicant argues that he has invoked 35 USC 112 6th paragraph, therefore, Bayles cannot be applied to the claims, the examiner disagrees. Applicant's specification states in paragraph 39 that "those skilled in the art will appreciate, however, that other types of vibration, or impacting, devices and alternative passive/ active mechanisms to produce a force in the opposite direction of the vibration/ impacting device could be used". Bayles is still applicable since the Bayles vibrating device is an equivalent of the structure described in the specification because it performs the function specified in the claims and is not excluded by any explicit definition provided in the specification. Any changes to the following prior art rejection were only made to further clarify the examiner's position and therefore the instant Office action has been made final.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-8, 28, 30-32, and 57 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 1,604,958 (Bayles). Bayles discloses an apparatus for freeing a seized valve comprising an elongate stem (S), means for enabling the repeated application of an impact force in opposite directions (lines 49-67), gripping means (Z) including a plurality of jaws (seen in figure 1), means for enhancing the engagement or teeth (teeth on jaw in figure 2), wherein the teeth (on jaw in figure 3) are substantially perpendicular (seen in figure 3), external impact producing device (B), and means to allow an impact force in a rotational direction (element H, the handle will allow a user to rotate the assembly).

Allowable Subject Matter

6. Claims 9-15 and 33-39 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 5,381,996 (Arnemann et al.) disclose an apparatus for freeing a seized valve.

U.S. Pat. No. 5,286,133 (Wood) discloses a nut passing over a sleeve so that the sleeve further engages a threaded shaft.

U.S. Pat. No. 4,133,229 (Grenci) discloses an apparatus for freeing a seized valve.

U.S. Pat. No. 5,638,590 (Silano) discloses an apparatus for freeing a seized valve.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John K. Fristoe Jr. whose telephone number is (571) 272-4926.

The examiner can normally be reached on Monday-Friday, 7: 00 a.m-4: 30 p.m.

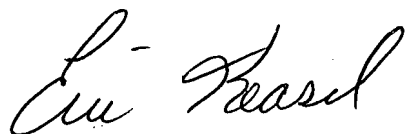
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric S. Keasel can be reached on (571) 272-4929. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/John K. Fristoe Jr./
John K. Fristoe Jr.
Examiner
Art Unit 3753

JKF



ERIC KEASEL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700